

**BOARD OF GAME AND INLAND FISHERIES MEETING MINUTES
4000 WEST BROAD STREET
RICHMOND, VIRGINIA**

DECEMBER 12, 2006, 9:00 am

Present: John W. Montgomery, Jr., Chairman, Sherry Smith Crumley, Vice Chairman, C. Marshall Davison, Richard E. Railey, Jr., C. T. Hill, Randy Kozuch, Charles S. Yates, James W. Hazel; **Absent:** Ward Burton, William T. Greer, Jr., Thomas A. Stroup (schedule conflicts); **Legal Counsel:** Roger Chaffe, **Director:** J. Carlton Courter, III; **Senior Staff:** Mike Bise, Raymond E. Davis, Bob Duncan, Gary Martel and David Whitehurst and Virgil Kopf.

Chairman Montgomery called the meeting to order at 9:00 am. The Mission Statement was read into the record and Colonel Mike Bise led the Pledge of Allegiance to the Flag. A quorum was present.

Public Comments, Non-Agenda Items: Chairman Montgomery provided an opportunity for members of the public to comment on non-agenda items. Speakers representing groups were requested to limit their remarks to five minutes. Individuals were requested to limit remarks to three minutes.

Melvin J. Jacks, West Point, Virginia, On behalf of the citizens of Carroll County, they want to know why they only have a two week hunting season; while traveling back and forth in the mountains Mr. Jacks counted at least thirty deer killed along the road (15 going up and 15 coming back – approximately). Seems like there is an over abundance of deer, they were wondering why they don't have a longer hunting season in the mountains in Carroll County. Another thing is he talked to the waterfowl people; they want to know why the resident geese do not come later in the season. It is too hot to hunt in September and the dogs begin to pant and the hunters do not feel comfortable themselves. They would like a season later where a resident can hunt Canadian geese. The trappers would like two weeks longer in their season because they currently have only a month. If the trappers are not out there, we are not going to have marshes because the muskrats are tunneling and this will make the ground cave in and fill with water. Chairman Montgomery thanked Mr. Jacks for his remarks.

Tom Powers requested to speak later during the agenda regarding gill nets in up river areas (Gizzard Shad, perch, etc.).

Mark Horner, Gloucester, Virginia, Coastal Conservation Association of Virginia requested to speak later during the agenda regarding the proposed Gill Net Regulation.

Recognition of Colonel Massengill: Chairman Montgomery and the Board recognized Colonel and Mrs. Gerald Massengill. Colonel Massengill served as Interim Director of the Agency for eighteen months. Mr. Montgomery noted his command presence; leadership skills; wonderful reputation not only as a leader but as a person and his strength. Some of the accomplishments noted among the many achieved during his tenure were: the realignment and reorganization of the Law Enforcement Division; addressed pay disparity issues; addressed the Internal Audit Requirements; assisted the agency in acquiring two additional wildlife management areas: Cavalier and Featherfin; assisted in the reorganization of the outreach and hunter education programs; completion of the Marion Office; worked with General Assembly to demonstrate the commitment of himself, the staff and Board to make the reforms necessary to move the Agency forward. Chairman Montgomery also thanked Nita for her support of the Colonel's service to the agency. The Board echoed Mr. Montgomery's remarks and reflected on the joy of the staff when the Colonel agreed to stay a few more months. In addition, the Board also added their undying gratitude; they viewed him as a truly great public servant and role model; his actions increased the credibility of the Board and Agency. Ms. Crumley stated that she could not have served as Chairman of the Board if it had not been for Colonel Massengill. She described him as being a "man absolutely beyond reproach." Everyone that knows him, respects him. On behalf of the Board, Ms. Crumley presented the Colonel with a gift certificate for Primland Resort. On behalf of the Senior Staff and Agency, Ray Davis presented the Colonel with a life time resident hunting and fresh water fishing license and plaque. Colonel Massengill thanked the Board and Staff for the honor of serving but stated he could not have completed the accomplishments listed without the help of everyone. He also thanked the Citizens of the Commonwealth for their support.

Recognition of Employees and Others: Director Courter and Colonel Bise recognized Office John Cobb as the Southeastern Officer of the Year. This award was presented to John during the SEAFWA Conference. The Board extended their congratulations to Officer John Cobb as well.

Meeting Minutes: The minutes of the October 17, 2006 Board meeting have been posted on the Web, and copies were included in the Board member's briefing materials. Chairman Montgomery called for any additions or corrections to the minutes. **As there were none, Mr. Railey moved, seconded by Mr. Yates, passed unanimously in a show of hands vote, to approve the minutes of the October 17, 2006 Board meeting as written. Ayes: Montgomery, Railey, Kozuch, Yates, Hazel, Crumley, Hill Davison.**

Committee Reports: Education, Planning and Outreach Committee: Ms. Crumley reported that the Education, Planning and Outreach Committee met on December 12, 2006. Colonel Bise announced that eighteen new recruits are in the Game Warden Academy; they viewed a DVD on the Families Afield Initiative; the staff presented the new web "Outdoor Report" and the Board Orientation Manual. Ms. Crumley thanked the staff for their efforts in completing the manual. The staff presented an amendment to the

Governance Manual for the Board to officially adopt in **Section I- Structure and Function of the Board, A. Composition, Item 2** – to read: All new Board members must complete an orientation program in conjunction with the first regularly scheduled Board meeting following the announcement of their first appointment to the Board or within ninety (90) days of the announcement of their first appointment to the Board if orientation cannot be completed in association with the first Board meeting. The Vice-Chairperson shall be responsible for developing and presenting the orientation program, and the Board Secretary will distribute an extensive orientation manual to new Board members upon announcement of the appointments. **Item 3-** to read: All Board members shall be required to sign an affirmation pledging to uphold both the letter and spirit of The Board of Game and Inland Fisheries' Code of Ethics and Conduct within ninety (90) days of the date of their appointment to the Board or within thirty (30) days of the adoption of these policies, whichever comes later. The adoption of the amendment is in accordance with the Governance Manual. **Chairman Montgomery move the Board adopt the amendments to the Governance Manual as presented from the Committee. Motion moved seconded by Mr. Hazel. Ayes: Montgomery, Crumley, Davison, Railey, Hill, Kozuch, Yates and Hazel.**

Ms. Crumley recognized staff who provided an update on proposed legislation for the 2007 General Assembly. The Agency pre-filed five legislative proposals to legislative services. A favorable response has been received and a sponsor will be found to sponsor these proposals through the normal process. They will not be included in the Governor's package. Updates are to be provided to the Board in advance of the Session. A link to the General Assembly will be provided on our web site.

Finance, Audit and Compliance Committee: Mr. Hill reported that the Finance, Audit and Compliance Committee met on November 14, 2006 and the minutes of the meeting have been posted to the web site. Monies are still due from the Hurricane Katrina EMAC mission. As of October 31, DGIF has 449 salaried employees. Staff continues to work with VITA on Audit issues. Staff received a reminder from the Director to document all SPCC charges. Net revenue is ahead from last year. The next meeting of the committee will be February 20, 2007.

Wildlife and Boat Committee Meeting, Mr. Hazel reported that the Wildlife and Boat Committee met on December 7, 2006 and the minutes of the meeting have been posted on the web site. Mr. Hazel noted that a quorum was not present for the meeting and there were no items for action on the agenda. Staff provided the committee a Fisheries and Regulations update. There are amendments on the Board agenda for action later during the meeting. Mr. Ed Rhodes provided an update on the Boating Safety Alliance in Virginia. Delegate Byron has pre-filed legislation for the 2007 General Assembly. The staff provided an update on Wildlife Disease. A Wildlife Disease Regulation will be presented for the Board's approval later in the meeting. Public comments were also received on the Sunday Hunting – one opposed and two in favor of Sunday Hunting. Mr. Hazel reminded everyone that the Board and the Agency do not have a proposed Sunday Hunting bill nor do they have a position on the issue. Mr. Hazel reminded everyone to

review the Virginia White-Tailed Deer Plan. The plan will be used as a guidance document for future deer regulations through 2015.

Regulation Proposals:

Wildlife Disease: Background: At the October Board Meeting, the Board proposed and advertised a regulation that authorizes the Director to undertake measures that could be applied to prevent, control and eliminate any disease problem in free ranging and captive wildlife. As we have indicated in past Board presentations, wildlife diseases are a continuing threat to the overall health of our natural resources in Virginia. During recent developments in dealing with an unknown disease in deer in the northern portion of the state emphasizes the urgent need to adopt this regulation so disease management options can be implemented if necessary. Therefore, Staff is recommending the regulation be effective December 15, 2006. The regulation was advertised for comments on the department's website and in the Virginia register. To date, twenty-one comments have been received via the Internet. No comments have been received by letter or phone.

Proposed Regulation:

Regulation 4 VAC 15-20 Definitions and Miscellaneous: In General.

4 VAC 15-20-220. Definitions and Miscellaneous: In General. Disease prevention, control and eradication in wildlife. The proposal is to authorize the Director of the Department of Game and Inland Fisheries to take measures to prevent, control, or eradicate the spread of disease in wildlife populations in the Commonwealth. When disease threatens wildlife, the measures would include but not be limited to: delineating wildlife disease management, surveillance, and quarantine areas; reduction of selected wildlife populations; restriction of the movement of wildlife or parts thereof; prohibition of the feeding of wildlife or the use of animal-based products such as attractants; prohibiting the rehabilitation and release of selected wildlife species and the manipulation or modification of environmental conditions; requiring mandatory checking and disease testing of selected wildlife species; and modifying or establishing hunting and trapping seasons and bag limits. When disease in wildlife or planned disease response has implications for human, or domestic or agricultural animal health, the Director would be authorized to undertake the above in consultation with the state or public health veterinarian. When disease that threatens wildlife, human, domestic or agricultural animal health is confirmed in wildlife held in captivity, the Director, in consultation with the state or public health veterinarian would be authorized to quarantine or dispose of such animals, using measures that include population reduction, depopulation and exportation, modification and decontamination of the captive facility, and revocation of permits or modification of permit conditions; the department would be authorized to indemnify, at fair market value, owners for privately-owned wildlife removed, and seek reimbursement of costs for depopulation, modification to, or decontamination of the facility from the landowner or owner of the facility.

After a brief presentation by the staff and discussion by the Board, Mr. Hazel made the following motion: I move that the Board adopt the staff proposal relevant to 4 VAC 15-20-220 as final; I further move that the regulation take effect on December 15, 2006. Motion moved and seconded. AYES by show of hands: Crumley, Davison, Railey, Hill Kozuch, Yates, Hazel.

Proposed Fish Regulation Amendment to 4 VAC 15-320-40. Fish: Fishing Generally. Sale of game fish, yellow perch, white perch, gizzard shad, carp, gar, and catfish.

The proposal is to add yellow perch, white perch, gizzard shad, carp, and gar to the list of freshwater fish that may be harvested from below the fall line in all tidal rivers of the Chesapeake Bay and sold commercially in accordance with Virginia Marine Resources Commission commercial fishing regulation, and size and harvest limits set by the Department of Game and Inland Fisheries.

Regulation 4 VAC 15-360

Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Non game Fish.

4 VAC 15-360-10.Fish: Aquatic Invertebrates, Amphibian, Reptiles, and Non game Fish. Taking aquatic invertebrates, amphibians, reptiles, and non game fish for private use. The proposal is to make it legal to take gizzard shad and white perch from below the fall line in all tidal rivers of the Chesapeake Bay using a gill net, in accordance with Virginia Marine Resources Commission recreational gill net regulations, and size and harvest limits set by the Department of Game and Inland Fisheries.

Background: Proposed fish regulation amendments, to allow the commercial harvest and recreational gill net harvest of certain freshwater fish, were approved for advertisement and public comment at the October 17, 2006 Board Meeting. All public comments have been forwarded to the Board.

Recommendation: Staff recommends the package of proposed fish regulation amendments be adopted as advertised, to become effective January 15, 2007.

After a brief presentation by the staff and discussion by the Board, Mr. Montgomery called for public comments.

Mr. Mark Horner, Gloucester, Virginia, Coastal Conservation Association of Virginia, (distributed handout) I apologize for any protocol I may have violated since this is my first time in speaking with the Board. I appreciate the opportunity. I represent the CCA of Virginia, we represent approximately 2000 Saltwater Anglers and those familiar with the organization know we interface with the VMRC on a regular basis as well as state legislature when it comes to saltwater fisheries management. Of course, our goal is to make sure there is enough resource for all users – commercial and recreational. The regulatory changes that have been proposed, we are in favor of and support with certain concerns: the concerns we have in the recreational area we feel will be addressed by the VMRC in February at their meeting which will limit soak time, I believe to one hour; and limit the net length to 100 feet and will allow the confiscation of nets that are

unattended. Those changes we feel will address the issues we have of bi-catch in the recreational fishing arena with the gill nets. On the commercial side, there is no exact science to what this bi-catch is....some antidotal results are 5-1, 10-1 ratio of striped bass to the different perches and the other species that are being targeted with these nets. These reports came out in different VMRC Committee meetings and most of these came out when we are dealing with stripe bass population numbers. There have been members at VIMS (Virginia Institute of Marine Science) that have made statements to the effect that we do need to conduct studies to make sure that we are not harming any of the other species that are being bi-caught as a non-targeted species in this fishery. Lastly, we really feel as a group that we could really get behind this should the VMRC, Game and Inland Fisheries and VIMS could conduct some studies to understand the impact of the bi-catch in this fishery and with those types of studies and some good scientific evidence would give us the right avenues to go to as far as the right kind of gear; to regulate the gear; and a way to regulate the fisheries. This concludes my address sir, if anyone has any questions, I will be more than happy to attempt to address them. Chairman Montgomery thanked him for coming and his remarks.

Tom Powers, Poquoson, Virginia, serves on the VMRC Fin Fisheries Management Advisory Committee, “I spoke to the Board during the August Meeting regarding this matter and I appreciate the fact that the Board is taking action on the matter at this time. In October, Jack Travelstead and I drove up to Richmond and spoke with a number of recreational catfish fishermen. These fishermen supported the changes that VMRC has proposed for February. Those changes are reducing the net size from three hundred feet to one hundred feet and reducing the soak time to one hour so that means that any fish caught that are in the net still alive can be released and reinforce the confiscation of unmarked (which they would be unmarked which they would be because they are recreational) gill nets that are unattended. A public hearing is scheduled in February on that. These are recreational limits. The commercial limits, to correct Mr. Martel for one minute – an omission he made – commercial nets can be up to 1200 feet long; they can have multiple nets for individual and no limit on the soak time because they in theory are professionals at doing this and they know where to set the nets to minimize bi-catch. Regarding the bi-catch studies that Mr. Horner requested – such studies are consistent with the current amendment to the ASMFC Stripe Bass Management Plan that have directed the states to do these types of studies.”

Mr. Montgomery thanked everyone for their comments.

Mr. Montgomery called for the motion to amend the regulations. Mr. Hazel moved the Board adopt the fish regulations amendments as presented by staff, to become effective January 15, 2007. Seconded. Ayes by show of hands: Davison, Railey, Hill Kozuch, Yates, Hazel and Crumely.

Chairman’s Remarks: Mr. Montgomery stated the Dean’s Office of the Natural Resource College of Virginia Tech issued the invitation to the Board to hold a meeting at Virginia Tech. Mr. Montgomery will move forward on the arrangements of the meeting to be held sometime this Summer. He thanked everyone again for their remarks and

recognition of Colonel Massengill. He asked the Director to continue the outreach as priority item for the agency. Mr. Montgomery asked the staff to continue to work on the Families Afield outreach program.

Director's Remarks: Mr. Courter thanked the Board for their confidence in selecting him as Director of the Agency. Since his arrival, he has completed two staff meetings and he is conducting individual interviews with Senior Staff. By the Christmas Holiday, Mr. Courter will have visited all five regional offices. Prior to his arrival, he attended the Virginia Deer Hunters Association banquet. Mr. Courter intends to continue to reach out to the different constituent groups and participate in as many events as possible. He attended the annual federal partnership meeting with the U.S. Department of Forestry, VA. Dept. of Conservation and Recreation, U.S. Fish and Wildlife, VA Dept. of Forestry and the U. S Park Service. Mr. Courter and the Agency will work with the General Assembly to move forward the legislative proposals and will provide updates to the Board.

Mr. Courter reintroduced Colonel Bise to recognize Mr. Ron Henry who presented the NASBLA Officer of the Year Award to Frank Neighbors.

Mr. Courter introduced Mr. James Adams who introduced a potential action on an easement to achieve the Governor's goal in preserving an additional 400,000 acres. A call was received yesterday from Mr. Charles McDaniel that the King and Queen Rod and Gun Club wanted to donate to the Board a Conservation Easement consisting of over 420.5 Acres. The acquisition of the easement needs to be approved and recorded by December 31, 2006. After discussion by the Staff and the Board, the following motion was made by Ms. Crumley: **I move that the Board authorize the Director to execute a conservation easement for approximately 420.5 acres in King and Queen County, Virginia, and such authorization shall be according to applicable state procedures, and in accordance with terms and conditions acceptable to the Director. Motion seconded. AYES by show of hands: Montgomery, Crumley, Davis, Railey, Kozuch, Yates, Hill. Mr. Hazel abstained.**

Mr. Courter recognized Mr. Bob Ducan who presented the Board with the Virginia White Tail Deer Management Plan. This plan will be used next March for future regulations. The Plan will be posted on the web.

A discussion was held by the Board and the staff on the safety of tree stands.

Ms. Crumley reported on the SEAFWA Conference. There were over eight hundred people in attendance and the staff did a wonderful job of coordinating the event. Agency heads from different state agencies told Ms. Crumley it was one of the best conferences they had attended in a long time. Major topics of discussion were: communication and disease. Ms. Crumley thanked Mr. Montgomery for the opportunity to attend the conference and represent the Board.

At 11:39 Ms. Crumley made the following motion to go into a closed session: I move that the Board of Game and Inland Fisheries go into a closed meeting pursuant to §2.23-3711.A.1 of the Code of Virginia for discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the Department of Game and Inland Fisheries specifically pertaining to the Director's performance, and further, pursuant to §2.2-3711.A.7 for consultation with legal counsel on possible agency involvement with a lawsuit regarding archery hunting in Fairfax County; and briefings by staff members or consultants pertaining to actual or probable litigation. Motion seconded: Ayes by show of hands: Montgomery, Crumley, Hazel, Hill, Yates, Railey, Davison, Kozuch.

At 12:32 Ms. Crumley made the following certification on behalf of the board; I certify that whereas the Board of Game and Inland Fisheries has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act, and whereas §2.2-3712.D of the Code requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law; now, therefore, be it resolved that the Board of Game and Inland Fisheries hereby certifies that (i) to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed on considered by the board. Certification approved by show of hands: Montgomery, Crumley, Hazel, Davison, Railey, Hill, Kozuch

There being no further business the meeting was adjourned. The next scheduled meeting will be held on March 27, 2007.

Respectfully submitted,

Beth B. Drewery
Board Secretary